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**Trunch - CL/21/0566 Certificate of lawful development for existing use of land for stationing of a caravan - Land East Of Lincoln Cottage (known As The Vineyard), Common Road, Bradfield Common for Ms Bell**

**Certificate of lawful development**

- Target Date: 21th April 2021

- Extension of time: N/A

Case Officer: Mr Jonathan Pavey-Smith

**CONSTRAINTS:**

- Agricultural land: Grade 3
- Areas Susceptible to Groundwater Food Type: Clearwater
- Detailed river network – Drain Length: 48.5785597676
- Internal drainage boards boundary: Norfolk Rivers
- Landscape character area - Type: river valleys
- Landscape character area - Description: Tributary Farmland
- Countryside LDF

**RELEVANT PLANNING HISTORY**

ENF/19/0109 - Enforcement Enquiry

PF/07/0203 Retention of feed storage shed - Approved

PF/06/1187 Continued use of land for dog agility training and retention of feed store - Refused

PF/02/0763 Siting of mobile field shelter - Approved

**THE APPLICATION**

The application is to confirm that the existing use of the land concerned is lawful for planning purposes under section 191 of the Town and Country Planning Act 1990;

Unlike a planning application, an application for a certificate of lawfulness is not assessed against relevant development plan policies and material planning considerations. It is a legal

determination made on the basis of the evidence submitted as to whether the existing development i.e. operation or use, is, on the balance of probabilities, lawful and as such immune from enforcement action.

## REASONS FOR REFERRAL TO COMMITTEE

At the request of Councillor Greg Hayman on the grounds that the evidence provided seems to be disputed by the community and contradicts that provided by the applicant. It is felt that in view of the importance of the decision and the feelings about it, it is appropriate for the committee to make the decision.

## PARISH/TOWN COUNCIL

Trunch Parish Council object for the following reasons

- Statutory declaration by Mr Peter Betts is incorrect and untruthful;
- In 2003 a large caravan (8ft by 4ft) was put on the land and NNDC took no action;
- The caravan has frequently been moved off the land;
- The Animal Magic Dog Training business that took place on the land from 2003 caused noise and disturbance and NNDC took no action;
- The land has recently been advertised for fun days for dogs and their owners to host birthday parties, fun events and picnics;
- The caravan is not easy to move;
- The caravan and land will be let out as holiday accommodation;
- The proposal fails to comply with Policy HO9 of the North Norfolk Core Strategy;
- The current caravan on site measures 12ft by 35ft and is disproportionately large for the applicant's needs;
- The caravan is an eyesore;
- The current caravan on site is twice the size of the previous caravan that it replaced;
- The statement on page 5 of the statutory declaration by Bronwen Bell that, "*both the large touring caravan and the static caravan have been sited on the land continuously since 2003 to date*" is misleading as the small caravan and the large static mobile home were only both on site allegedly for a two-week period during 2020 during the transition period of swapping a small caravan for the large static mobile home.
- The permitted development rights should not enable the large mobile static home to be sited on the land to allow for sewerage connection as the large static mobile home does not have any permissions to be located on the land.
- The proposal fails to comply with North Norfolk Core Strategy Policies SS1, SS2, SS4, EN2, EN8 and EN5.

## REPRESENTATIONS:

Ten Letters of objection on the following grounds:

- More caravans means the lanes become busier
- The stationing of the caravan is illegal
- The caravan has not been on site continuously for 10 years
- The caravans spoils the views of the countryside
- The proposal does not accord with Policies SS1 and SS2
- The caravan is too big and incompatible with the local environment

- The application should be refused on grounds of visual amenity
- The caravan will lead to the construction of houses and buildings
- The present static caravan is different to other ones that have been on site
- No details have been given for the approval of the sewerage connection
- The plot will become a residential garden, a personal permanent residence or holiday let

#### HUMAN RIGHTS IMPLICATIONS

It is considered that the proposed development may raise issues relevant to

Article 8: The Right to respect for private and family life.

Article 1 of the First Protocol: The right to peaceful enjoyment of possessions.

Having considered the likely impact on an individual's Human Rights, and the general interest of the public, refusal of this application as recommended is considered to be justified, proportionate and in accordance with planning law.

#### CRIME AND DISORDER ACT 1998 - SECTION 17

The application raises no significant crime and disorder issues.

#### APPRAISAL

##### Guidance in relation to the Certificates of Lawful Development

There are two types of lawful development certificates

(a) An existing use of land, or some operational development, or some activity being carried out in breach of a planning condition is lawful for planning purposes under section 191 of the Town and Country Planning Act 1990; or

(b) A proposed use of building or other land or some operation proposed to be carried out in, on, over or under land, would be lawful for planning purposes under section 192 of the Town and Country Act 1990.

This application is in relation to Section 191 of the Act (a) above.

##### Basis of determination:

In the case of applications for existing use, if a local planning authority has no evidence itself, nor any from others, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application, provided the applicant's evidence alone is sufficiently precise, unambiguous and credible to justify the grant of a certificate on the balance of probability.

A local planning authority needs to consider whether, on the facts of the case and relevant planning law, the specific matter is or would be lawful. Planning merits are not relevant at any stage in this particular application process.

##### Relevant Planning Background:

In determining if the residential use of the land has become lawful due to the passage of time there are a number of key tests, the first is ownership (past and present), the second is uninterrupted use (past and present) and the third concerns the nature of and extent of that use.

The land that the caravan sits on has been owned by Bronwen Bell (the applicant), since

2002 and a caravan has been stationed on it since 2003 (not always the same caravan over the last 10 years). The purpose of the stationing of a caravan on the land has been to provide shelter /respite when working on the land, toilet and refreshment facilities and a secure lockable venue for expensive equipment. Since 2010 the applicant has used the land as a small holding developing planting and growing crops plus a vineyard for her own use off-site.

The applicant has provided evidence to support all this.

#### Evidence submitted with the Certificate of Lawfulness for Existing Use or Development

The applicant has provided numerous documentation to support the application. The key documents are as follows;

- A signed statutory declaration by Bronwen Bell stating that she has owned the application site for more than 10 years since 2002, since 2003 that there has continuously been a caravan on site for the past 10 years, that the land and the caravan have been used for over the past 10 years;
- A signed statutory declaration by Peter Betts a friend and worker on the land since 2002 that supports what the applicant says in her signed statutory declaration;
- Exhibit 1 Document A Land Registry Official Copy of Register of Title which is evidence that the application site has been in the ownership of the applicant since 2002;
- Exhibit 1 Document B Aerial photographs showing the presence of a caravan on site for the years 2006/7, 2010, 2014 and 2017;

Note a caravan was observed on site on the site visit in April 2021;

- Exhibit 1 Document N illustrates the new static caravan; the photograph was taken in 2021.
- The DEFRA registration number 11590966B in the signed statutory declaration by the applicant Bronwen Bell that the land has been in agricultural use since 2010;

#### Other evidence provided

- Exhibit 1 Document C comprises a series of photographs showing the dog agility area that were left erected on the land when not in use and the stables in use by the applicant's horses;
- Exhibit 1 Document D comprises a letter dated 28 March 2007 from the Council confirming the planning permissions 2007/0203 and 2002/0763 have been complied and the conditions discharged for re-use of the land for keeping horses to having it as a small agricultural holding;
- Exhibit 1 Document E comprises permission by NNDC to plant trees on the land;
- Exhibit 1 Document F shows that the above permission (Exhibit Document E) was sent to Bradfield where the Applicant was living at the time;
- Exhibit 1 Document G shows the commencement of planting of trees and the caravan on site;
- Exhibit 1 Document H a Report By Keys 2011 for valuation purposes;
- Exhibit 1 Document I quotations for additional tree planting on the land;
- Exhibit 1 Document J photograph of the first year of the orchard following planting;
- Exhibit 1 Document K estimate for further non-grant tree planting;
- Illustrates the orchard in 2013 and nut trees and firewood growth on land in 2014;

The Parish Council state that the signed statutory declaration by Peter Betts is in incorrect and untruthful because they have evidence of invoices that he has not managed the land since 2002. However, Mr Betts does not state in his signed declaration that he managed the land from 2002 but that he worked on it. So for this reason Mr Betts signed declaration is considered genuine.

Furthermore, members of the public who have objected to this application and the Parish Council cite several North Norfolk Core Strategy policies stating that the application is not compliant with, however, a local planning authority needs to consider whether, on the facts of the case and relevant planning law, the specific matter is or would be lawful, planning merits are not relevant at any stage in this particular application process.

The local planning authority has no evidence itself, nor any from others, to contradict or otherwise make the applicant's version of events less than probable.

On balance, therefore, the Council consider the use described to be lawful.

#### Concealment:

The Council does not consider that any positive act of concealment has occurred during the determination of this planning application.

#### Conclusion and Recommendation

The evidence submitted with the application demonstrates that the application site and the caravan located there have been in uninterrupted and unconcealed residential use for a period in excess of 10 years, and the evidence submitted is not called into question by evidence held by the Council. Therefore, it is considered that the residential use of the land in question has become Lawful due to the passage of time.

On the balance of probabilities, the recommendation is to Grant the Certificate of Lawful Development for Existing Use.